

**Date:** August 18, 2015  
**To:** Thomas J. Bonfield, City Manager  
**Through:** W. Bowman Ferguson, Deputy City Manager  
**From:** Jina B. Propst, Assistant Director, General Services Department  
**Subject:** Land Lease between the City of Durham and Frontier Communications of the Carolinas, LLC

### **Executive Summary**

Frontier Communications of the Carolinas, LLC (Frontier) proposes to enter into a twenty (20) year land lease for the purpose of location and operation of telephone communications exchange facilities. The telephone communications exchange facilities consist of a telephone exchange building of approximately 50 feet by 60 feet that is located on a portion of 6605 Farrington Road, Parcel ID 141733 (City Tract 760), together with an access easement along a twelve (12) foot wide gravel driveway which extends eastward approximately one hundred fifty (150) feet from Farrington Road. Frontier's lease expired on October 21, 2012. Frontier's month-to-month tenancy has existed on the premises from the date of expiration through August 31, 2015. Frontier will pay the City, in arrears, the sum of \$5,032.93 upon execution of the lease.

General Services Department staff has negotiated a new twenty (20) year lease beginning September 1, 2015 and ending August 31, 2035. Frontier will pay an initial annual rental of \$4,500.00. The rental will increase by 3% annually for the remainder of the lease term (See Financial Impact).

G.S. 160A-272 requires that leases for terms of more than 10 years shall be treated as a sale of property and may be executed by following any of the procedures authorized for sale of real property. The City proposes to lease the property pursuant to the Upset Bid Procedure of G.S. 160A-269.

### **Recommendation**

The Department of General Services recommends that City Council:

1. Propose to accept a land lease with Frontier Communications of the Carolinas, LLC for a portion of the property located at 6605 Farrington Road and advertise for upset bids pursuant to the Upset Bid Procedure (G.S. 160A-269);
2. Authorize the City Manager to accept the bid from the highest responsible bidder at the conclusion of the upset bid process, pursuant to Section 86.3 of the City Charter;
3. Authorize the City Manager to execute a land lease with Frontier Communications of the Carolinas, LLC for a twenty (20) year term for the purpose of location and operation of telephone communications exchange facilities, together with the access easement, on a portion of 6605 Farrington Road, Parcel ID 141733 (City Tract 760);
4. Authorize the City Manager to execute a Memorandum of Lease.

### **Background**

The original land lease, between the City of Durham and GTE South, Incorporated (GTE), was executed in 1982. GTE, at its sole expense, erected the telephone exchange building

and created access to the building from Farrington Road. Frontier is the successor in interest to GTE. The telephone exchange building is owned and maintained by Frontier and provides telephone services to the southwest area of Durham.

### **Issues/Analysis**

The land lease between the City and Frontier at 6605 Farrington Road is beneficial to the citizens of Durham. The leasing of City-owned land by Frontier generates a steady income stream that would not otherwise exist, and the telephone exchange building houses equipment that supplies telephone service to citizens living and working in the southwest area of Durham. This Council action authorizes the upset bid process to begin upon advertisement of the offer.

### **Synopsis of Upset Bid Procedure**

The City may solicit and receive bids to purchase property. A five percent deposit must be submitted with the bid. When a bid is made and City Council proposes to accept it, the bid is advertised for upset bidding in a local newspaper. This begins the upset bid procedure. The notice contains a general description of the property, the amount and terms of the bid, a notice that within 10 days any person may raise the bid by not less than ten percent of the first \$1,000.00 of that offer and five percent of the remainder, the date and time by which upset bids should be received, and the location to submit bids.

This procedure is repeated until no further qualifying upset bids are received, at which time the City Manager may accept the bid and sell the property to the highest qualifying bidder, or may choose not to accept the bid.

The bid will not be awarded to persons owing delinquent City-County taxes or assessments. Closing will be held within 90 days of the City's acceptance of the bid.

### **Alternatives**

The City Council could decide not to approve the land lease with Frontier. This alternative is not recommended because 1) if the City does not permit Frontier to continue operations at this location, telephone services to the southeast area of Durham may be interrupted, 2) the City will lose revenue of \$120,916.69 over a twenty (20) year period.

### **Financial Impact**

Frontier will pay the sum of \$4,500.00 for the first year of the lease. The rent will escalate by 3% each year in years 2 through 20. Revenue generated over the lease term is \$120,916.69. For the time period of October 22, 2012 through August 31, 2015, Frontier will pay the City, in arrears, the sum of \$5,032.93 upon execution of the lease.

### **SDBD Summary**

This item does not require review by the Equal Opportunity/Equity Assurance Department.

**Attachments:** Land Lease Agreement, GIS Map with Aerial Photo of parcel ID 141733.